

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PAUL A. PEREIRA, individually and as Mayor of
the VILLAGE OF MINEOLA, THE VILLAGE OF
MINEOLA, JAMES J. MCHUGH, JR.,
COUNCILMAN DENNIS J. WALSH, individually
and as member of the Town Board of the Town of
North Hempstead, AND COUNCILMAN DAVID A.
ADHAMI, individually and as member of the Town
Board of the Town of North Hempstead,

Plaintiffs-Petitioners,

v.

TOWN OF NORTH HEMPSTEAD, TOWN
BOARD OF THE TOWN OF NORTH
HEMPSTEAD and THE NASSAU COUNTY
BOARD OF ELECTIONS,

Defendants-Respondents.
-----X

Case No.. 22-cv-06231
(HG)

ANSWER TO COMPLAINT

Defendant, THE NASSAU COUNTY BOARD OF ELECTIONS, by its attorneys, BEE
READY FISHBEIN HATTER & DONOVAN, LLP, answers Plaintiffs' Complaint as follows:

AS AND FOR AN ANSWER TO NATURE OF ACTION

1. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph "1" of the Complaint.
2. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph "2" of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.
3. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph "3" of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

4. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “4” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

5. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “5” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

6. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “6” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

7. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “7” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

AS AND FOR AN ANSWER TO JURISDICTION AND VENUE

8. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “8” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

9. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “9” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

10. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “10” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

11. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “11” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

12. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “12” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

13. Admits the allegations contained in Paragraph “13” of the Complaint.

AS AND FOR AN ANSWER TO THE PARTIES

14. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “14” of the Complaint.

15. Admits the allegations contained in Paragraph “15” of the Complaint.

16. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “16” of the Complaint.

17. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “17” of the Complaint.

18. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “18” of the Complaint.

19. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “19” of the Complaint.

20. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “20” of the Complaint.

21. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “21” of the Complaint.

22. Admits the allegations contained in Paragraph “22” of the Complaint.

23. Admits the allegations contained in Paragraph “23” of the Complaint.

AS AND FOR AN ANSWER TO THE FACTS

24. Admits the allegations contained in Paragraph “24” of the Complaint.

25. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “25” of the Complaint.

26. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “26” of the Complaint and respectfully refers the Court to Town Code §15A for a complete and accurate representation of its contents.

27. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “27” of the Complaint and respectfully refers the Court to Town Code §15A for a complete and accurate representation of its contents.

28. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “28” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

29. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “29” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

30. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “30” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

31. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “31” of the Complaint.

32. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “12” of the Complaint and respectfully refers the Court to Resolution No. 22-2022 for a complete and accurate representation of its contents.

33. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “33” of the Complaint.

34. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “34” of the Complaint.

35. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “35” of the Complaint.

36. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “36” of the Complaint.

37. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “37” of the Complaint.

38. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “38” of the Complaint.

39. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “39” of the Complaint.

40. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “40” of the Complaint.

41. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “41” of the Complaint.

42. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “42” of the Complaint.

43. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “43” of the Complaint.

44. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “44” of the Complaint.

45. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “45” of the Complaint.

46. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “46” of the Complaint.

47. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “47” of the Complaint.

48. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “48” of the Complaint.

49. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “49” of the Complaint.

50. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “50” of the Complaint.

51. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “51” of the Complaint.

52. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “52” of the Complaint.

53. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “53” of the Complaint.

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56. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “56” of the Complaint.

57. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “57” of the Complaint.

58. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “58” of the Complaint.

59. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “59” of the Complaint.

60. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “60” of the Complaint.

61. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “61” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

62. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “62” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

63. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “63” of the Complaint.

64. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “64” of the Complaint.

65. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “65” of the Complaint.

66. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “66” of the Complaint.

67. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “67” of the Complaint.

68. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “68” of the Complaint.

AS AND FOR AN ANSWER TO FIRST COUNT
(Federal – Violation of Equal Protection)

69. Repeat and re-allege each and every allegation in the preceding paragraphs as if fully set forth herein.

70. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “70” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

71. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “71” of the Complaint and respectfully refer all questions of law and fact to the Court for ultimate determination.

72. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “72” of the Complaint.

73. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “73” of the Complaint.

74. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “74” of the Complaint.

75. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “75” of the Complaint.

76. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “76” of the Complaint.

77. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “77” of the Complaint.

78. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “78” of the Complaint.

79. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “79” of the Complaint.

AS AND FOR AN ANSWER TO THE SECOND COUNT
(Declaratory Judgment – Federal)

80. Repeat and re-allege each and every allegation in the preceding paragraphs as if fully set forth herein.

81. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “81” of the Complaint.

82. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “82” of the Complaint.

83. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “83” of the Complaint.

84. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “84” of the Complaint.

85. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “85” of the Complaint.

AS AND FOR AN ANSWER TO THE THIRD COUNT
(Violation of N.Y. Municipal Home Rule Law §§ 10 and 34)

86. Repeat and re-allege each and every allegation in the preceding paragraphs as if fully set forth herein.

87. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “87” of the Complaint.

88. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “88” of the Complaint.

89. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “89” of the Complaint.

90. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “90” of the Complaint.

91. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “91” of the Complaint.

92. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “92” of the Complaint.

93. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “93” of the Complaint.

94. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “94” of the Complaint.

95. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “95” of the Complaint.

AS AND FOR AN ANSWER TO THE FOURTH COUNT
(Violation of N.Y. Municipal Home Rule Law § 23)

96. Repeat and re-allege each and every allegation in the preceding paragraphs as if fully set forth herein.

97. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “97” of the Complaint.

98. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “98” of the Complaint.

99. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “99” of the Complaint.

AS AND FOR AN ANSWER TO THE FIFTH COUNT
(Declaratory Judgment – CPLR 3001)

100. Repeat and re-allege each and every allegation in the preceding paragraphs as if fully set forth herein.

101. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “101” of the Complaint.

102. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “102” of the Complaint.

103. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “103” of the Complaint.

104. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “104” of the Complaint.

105. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “105” of the Complaint.

106. Denies any knowledge or information sufficient to form a belief as to the allegations contained in Paragraph “106” of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

107. Plaintiffs fail to state a cause of action against the Defendant upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

108. Plaintiffs’ constitutional and statutory rights have not been violated by the Defendant.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

109. Plaintiffs’ claims, in whole or in part, are barred by the applicable limitations period, contractual limitations period, and/or jurisdictional prerequisites.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

110. Some or all of the claims asserted in Plaintiffs’ Complaint are barred by the equitable doctrines of laches, waiver, estoppel and/or unclean hands.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

111. With regard to the Defendant, the Nassau County Board of Elections, the actions complained of were in full accord with the applicable law.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

112. Plaintiffs’ claims are barred, in whole or in part, by Plaintiffs’ own actions.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

113. Punitive damages may not be recovered against the Nassau County Board of Elections as a matter of law.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

114. If the Plaintiffs sustained damages as alleged in the Complaint, such damages were sustained solely through and by virtue of the conduct of Plaintiffs without any actions on the part of the answering Defendant contributing thereto.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

115. Should Plaintiffs recover damages as a result of a finding of liability in whole or in part against the answering Defendant, such recovery should be reduced and diminished in proportion to the degree of liability of Plaintiffs in contributing to such damages due to his own conduct.

AS AND FOR AN TENTH AFFIRMATIVE DEFENSE

116. Defendant, the Nassau County Board of Elections, at all applicable times herein, enjoyed a full, partial or qualified immunity from civil suit.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

117. Defendant, the Nassau County Board of Elections, and all employees of Defendant the Nassau County Board of Elections, at all applicable times herein, acted in performance of their duties, as employees of the Board of Elections in good faith and without malice and their actions did not violate clearly established statutory or constitutional rights of which a reasonable person would have known, and therefore, said acts are immune from civil liability.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

118. Plaintiffs failed to mitigate their damages.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

119. If Plaintiffs' federal claims fail, the Court lacks subject matter jurisdiction over Plaintiffs' state law cause of action.

AS AND FOR FOURTEENTH AFFIRMATIVE DEFENSE

120. The Defendant reserves the right to plead, assert and rely on all proper affirmative defenses lawfully available, including those which may be disclosed or discovered through further assertions by Plaintiffs or persons Plaintiffs purport to represent or otherwise through discovery.

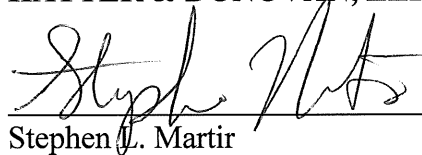
WHEREFORE, Defendant respectfully requests judgment dismissing the Complaint in its entirety, together with the costs and disbursements of this action, and for such other and further relief as this Court deems just and proper.

Dated: Mineola, New York
December 14, 2022

Respectfully submitted,

**BEE READY FISHBEIN
HATTER & DONOVAN, LLP**

By:



Stephen L. Martir

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